

The Honorable James C. Fox Practice Preferences

Brief Requirements:

- Please provide chambers with a courtesy copy of lengthy briefs.
- Page limit for briefs is 30 pages; replies are limited to 10 pages.
- Leave to exceed the prescribed page length must be obtained by motion.
- Please label exhibits clearly.
- If deposition transcript excerpts will be referenced in memoranda, Judge Fox prefers having the full condensed transcript available.

Emergency motions (e.g., TROs and select discovery motions):

Attorneys filing emergency motions should not call chambers unless or until the matter is assigned to Judge Fox. If Judge Fox is assigned, the intake deputy clerk should be advised that the matter requires immediate attention. Counsel may call Judge Fox's chambers after a case number is assigned, and may discuss setting a hearing with a law clerk. Except in admiralty matters, Judge Fox generally asks counsel initiating an emergency action to communicate with opposing counsel in an attempt to agree on temporary injunctive action pending a hearing on the motion for preliminary injunction.

Pretrial matters:

CIVIL

- The Pretrial Conference usually precedes trial by approximately two weeks.
- The Pretrial Conference will not automatically be continued if dispositive motions still are pending.
- Judge Fox refers most pretrial matters to the assigned magistrate judge until the calendar is published, and except in complex litigation.
- Because of Judge Fox's heavy criminal docket, civil litigants are encouraged to consent to magistrate judge jurisdiction for trial on a date certain.

- Judge Fox requires that the parties submit all "expert" witness material, including c.v.'s, reports, depositions and objections to qualifications, to chambers in advance of trial so that the court may conduct its gatekeeping function. Judge Fox refers to these witnesses as "opinion witnesses."
- Judge Fox also prefers to conduct a hearing near the date of trial in order to rule on objections identified in the Pretrial Order to the extent possible. At trial, all exhibits will be deemed admitted except those upon which ruling has been reserved.

CRIMINAL

- Motions to continue, either by attorneys or the United States Probation Office are to be submitted to the court at least five (5) business days prior to the beginning of a session, absent exigent circumstances.
- Please submit proposed orders with motions to continue criminal matters; orders continuing arraignment must contain speedy trial language from 18 U.S.C. section 3161(h).
- All attorneys, agents & defendants are to be present and seated at 9:00 a.m. on the first day of a term of court. All defendants who are to be arraigned during the term of court must be present in the courtroom at 9:00 a.m. on the first day of the term to hear the court's half-hour "litany." Any defendant who arrives late will be taken into custody.
- The court calls the docket at 9:00 a.m.
- Arraignments and Rule 11 hearings for entries of guilty pleas are conducted on the first day of a term of court; sentencings and motions hearings follow that day and continue into the week as necessary.
- All juries to sit during a term are selected on the same day.
- Trial order preferences should be expressed to the court's Courtroom Deputy Clerk, Shirley Rodgers at least a week in advance of the term of court during which the trial is to occur.
- Attorneys who anticipate scheduling conflicts should direct "conflict letters" to each judge whose docket will be affected. The court's staff will resolve the conflict and notify counsel. Attorneys with the United States Attorney's Office and Federal Public Defender's Office should endeavor to resolve as many such conflicts internally as possible before seeking the court's intervention; that is, federal lawyers should attempt to arrange to "hand off" a routine matter whenever possible.
- Large exhibits should be reduced to 8 1/2" x 11" for preservation in the record.

Proposed Orders:

Please submit proposed orders, and proposed jury instructions, or proposed findings & conclusions in PDF format through the CM/ECF system

Scheduling hearings:

- Hearings on civil motions are rare. Judge Fox expects counsel to set forth their arguments and the authority therefor in the memoranda submitted in support of, and in opposition to, the dispositive motions.
- Judge Fox is punctual and expects the same of all persons involved in a courtroom proceeding.
- Judge Fox personally reads everything that is filed.
- Counsel are placed on notice that Judge Fox is very, very jealous of the integrity of the federal court and of the legal profession. Counsel are cautioned that gamesmanship, sandbagging, name-calling, or any other type of behavior unbecoming a member of the bar of this court will not be tolerated.

Trial:

- Please contact the Clerk's office one week prior to a trial in which you want to use evidence-presentation equipment that is the property of the court. Not all equipment in the courtroom belongs to the court, and equipment that does not belong to the court is not available for use by litigants.
- Please prepare a tabbed notebook containing trial exhibits for Judge Fox and the law clerk.
- Counsel must question witnesses from a seated position at counsel's table unless it is necessary for counsel to discuss an exhibit with the witness at the witness stand.
- Counsel may not make arguments in their opening statements, and Judge Fox will stop an attorney who begins to argue during opening.
- Counsel will be permitted to choose the length of time for closing arguments, and both sides will be afforded the same amount of time.
- Judge Fox does not permit a witness to hedge and dodge a question, and will instruct the witness to answer counsel's questions. Likewise, Judge Fox does not permit counsel to argue with a witness.
- Generally, court begins at 9:00 a.m., recesses at Noon for one hour for lunch, and recesses for the day at 4:30 p.m. The court takes one, ten to fifteen-minute morning and afternoon break. Usually, court recesses for the weekend at 1:00 p.m. on Friday with no break for lunch.